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# Solved SCANNER™ Appendix

## PCC Gr. I Paper - 3 May - 2009

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### Solution of May 2009 Examination

#### Paper - 3A : Laws

#### Chapter - 1 : Basics of a Contract

**2009 - May [1] {C}** (c) Pick out the correct answer from the following and give reasons :

- (i) An agreement to subscribe or contribute a plate or prize of the value of Rs. 500 or above to be awarded to the winner of a horse race is
- (1) Void
  - (2) Valid
  - (3) Illegal
  - (4) Unenforceable..
- (1mark)

**Answer :**

- (i) **Valid:** As per Sec. 30 of Indian Contract Act, 1872, an agreement to subscribe to or contribute a plate or prize of the value of Rs. 500 or above to be awarded to the winner of horse race is valid.

#### Chapter - 3 : Other Essential Elements of Contract

**2009 - May [1] {C}** (b) State with reasons whether the following statements are correct or incorrect:

- (i) An agreement entered with a minor may be ratified on his attaining majority.
- (1mark)

**Answer :**

- (i) **Incorrect:** Rectification means acceptance of a transaction already done. A minor cannot ratify the agreement on attaining the age of majority as the original agreement is *void-ab-initio*, and, therefore validity cannot be given to it later.

#### Chapter - 4 : Performance of Contract

**2009 - May [1] {C}** (c) Pick out the correct answer from the following and give reasons :

- (ii) Substitution of new contract for an existing contract between the same parties is known as :
- (1) Remission
  - (2) Alteration
  - (3) Rescission
  - (4) Novation..
- (1mark)

**Answer :**

- (ii) **Novation:** As per Sec. 62 of Indian Contract Act, 1872, a substitution of new contract for an existing contract between the same parties is known as novation.

**Chapter - 8 : Contract of Indemnity and Guarantee**

**2009 - May [1] {C}** (b) State with reasons whether the following statements are correct or incorrect :

- (ii) Any variation in terms of contract made between principal debtor and a creditor without the consent of surety, automatically discharges the liability of the surety.
- (1mark)

**Answer :**

**Correct:** As per Sec. 133 of the Indian Contract Act 1872, any variance made without the surety's consent, in terms of contract, between the principal debtor and the creditor, discharges the surety as to the transactions subsequent to the variance.

**Chapter - 9 : Bailment and Pledge**

**2009 - May [1] {C}** (a) A, the bailor, pledges cinema projector and other accessories with Cine Association Co-operative Bank Limited, the bailee, for loan. A requests the bank to allow the pledged goods to remain in his possession and promises to hold the same in trust for the bailee and also further promises to handover the possession of the same to the bank whenever demanded. Examining the provisions of Indian Contract Act, 1872 decide, whether a valid contract of pledge has been made between A, the bailor and Bank, the bailee ?

(5 marks)

**Answer :**

Contract of pledge between bailor and bailee.

The problem is based on the provisions as contained in Sec. 149 of Indian Contract Act, 1872. As per this section, the modes of delivery of goods are as follows:

- (i) Actual
- (ii) Symbolic
- (iii) Constructive

Constructive delivery means doing of any act which has the effect of putting the goods in the possession of a person who agrees to hold them as a bailee for some other person although transfer of possession of goods does not actually take place.

In the given problem, delivery by attornment to the bailee (bank) while goods remain in custody of A shows that the delivery is constructive. The transaction was therefore a valid pledge.

**Chapter - 11 : The Negotiable Instruments Act, 1881**

**2009 - May [1] {C}** (c) Pick out the correct answer from the following and give reasons :

- (iii) In legal terms, person who takes the instrument bonafide for value before it is overdue, in good faith, is known as :
- (1) Holder in the due course
  - (2) Holder
  - (3) Holder for value
  - (4) None of the above.
- (1 mark)

**Answer :**

- (iii) **Holder in due course:** As per Sec. 9 of Negotiable Instruments Act, 1881, a person who takes the instrument *bona fide* for value before it is overdue, in good faith, is known as holder in due course.

**2009 - May [4]** Mr. 'Wise obtains fraudulently from 'R' a crossed cheque " Not Negotiable ". He transfers the cheque to 'V', who gets the cheque encashed from ANS Bank Limited which is not the drawee bank. 'R' on coming to know about the fraudulent act of Mr. 'Wise' sues ANS Bank for the recovery of money. Examine with reference to the relevant provisions of the Negotiable Instruments Act, 1881, whether 'R' will succeed in his claim ? Would your answer be still the same in case Mr. 'Wise' does not transfer the cheque and gets the cheque encashed from ANS Bank himself ? (5 marks)

**Answer :**

As per Section 130 of the Negotiable Instruments Act 1881, a person taking a cheque crossed generally or specially bearing in either case the words 'not negotiable' shall not have or shall not be able to give a better title to the cheque than the title the person from whom he took had. In consequence, if the title of the transferor is defective, the title of the transferee would be vitiated by the defect.

Thus, if the holder has a good title, he can still transfer it with a good title; but if the transferor has a defective title, the transferee is affected by such defects and he cannot claim the right of a holder in due course by proving that he purchased the instrument in good faith and for value.

In the given problem, and in both the cases shall succeed in his claim from ANS Bank.

**Case - 1:** AS Mr. Wise in the given case had obtained the cheque fraudulently, he had no title to it and could not give to the bank any title to the cheque or money and the bank would be liable for the amount of the cheque for encashment (*Great Western Railway Co. Ltd. vs. London and County Banking Co.*).

**Case - 2:** The answer in the second case would not change and shall remain the same for the reasons given above.

**2009 - May [7]** A issues an open 'bearer' cheque for Rs. 10,000 in favour of B who strikes out the word 'bearer' and put crossing across the cheque. The cheque is thereafter negotiated to C and D. When it is finally presented by D's banker, it is returned with remarks "Payment contermanded" by drawer. In response to this legal notice from D, A pleads that the cheque was altered after it had been issued and therefore he is not bound to pay the cheque. Referring to the provisions of the Negotiable Instruments Act, 1881 decide, whether A's argument is valid or not ? (5 marks)

**Answer :**

Sometimes, cheques may be altered between drawing and presentation period without authority from the drawer, some alterations are material and some are not.

Any change made in the instrument that causes it to speak a different language from what it originally intended or which changes the legal identity of the instrument in its terms or in relation or parties there to is a material alteration. (*Aldon vs. Corn Wall*).

In this problem, the cheque bears two alterations when it is presented to the paying banker (i) the word 'bearer' has been struck off and (ii) the cheque has been crossed. Both of these alterations do not amount to material alteration under the provisions of the Act and hence the liability of any including the drawer is not at all affected. 'A' is liable to pay the amount of the cheque to the holder.

**Chapter - 12 : The Payment of Bonus Act, 1965**

**2009 - May [3]** Skypark Wooden Toys Limited was established at Kolkata in the year 2005 employing 100 workmen. Since then the company suffered the losses, but minimum bonus was paid in the accounting years of 2006 and 2007. In the accounting year 2008 the company earned huge profits. After mitigating the previous losses the company is having surplus profits and wants to pay the bonus to its workmen. Skypark Wooden Toys Limited wants the legal advice on the following issues:

- (a) How much minimum and maximum bonus may be paid to the workmen?
- (b) Whether the company may adjust the puja bonus already paid to the workmen while calculating the amount of bonus payable to workmen of that accounting year.
- (c) Company wants to give wooden toys as bonus instead in cash. Whether the Company can do so ?

Advice the Skypark Wooden Toys Limited, stating the provisions of the Payment of Bonus Act, 1965. (5 marks)

**Answer :**

- (a) **Minimum Bonus**

The provisions with regard to minimum bonus given in Section 10 of the Bonus Act, 1965 provides for

- (i) Employees whose age is less than 15 years- 8.33% of salary or Rs. 60 whichever is more.

- (ii) Employees whose age is more than 15 years - 8.33% of salary or Rs. 100 whichever is more.

**Maximum Bonus**

As per Sec. 11, the year in which allocable surplus exceeds minimum bonus, the bonus payable would be amount in proportion to salary upto a maximum of 20% of salary.

(b) **Puja Bonus**

As per Section 17 of the Payment of Bonus Act, 1965 where, in an accounting year an employer has paid any puja bonus or other customary bonus to an employee, the employer shall be entitled to deduct (adjust) the amount of bonus so paid from the amount of bonus payable to the employee in respect of that accounting year and the employee shall be entitled to receive only the balance. Therefore Skypark Wooden Toys Ltd. may adjust the puja bonus already paid from the amount of bonus payable to the workmen and the workmen shall be entitled to receive only the balance.

- (c) The amount payable to an employee by way of bonus under the Payment of Bonus Act, 1965, shall be paid only in cash by the employer. Therefore, Skypark Wooden Toys Ltd. cannot distribute wooden toys as bonus, instead of cash. It is against the statutory provisions.

**Chapter - 13 : The Employees' Provident Funds and Miscellaneous Provisions Act, 1952**

**2009 - May [6]** State the provisions of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 relating to the protection of the amount standing to the credit of an employee in the provident fund against attachment.

(5 marks)

**Answer :**

According to Section 10 of the Employees Provident Funds and Miscellaneous Provisions Act, 1952, the amount standing to the credit of any member in the fund or of any exempted employee in a provident fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member or exempted employee, and neither the official assignee appointed under the Presidency Town Insolvency Act, 1909, nor any receiver appointed under the Provincial Insolvency Act, 1920, shall be entitled to or have any claim on, any such amount. This protection also applies to provident fund, pension and Insurance amount receivable by employee under the scheme.

Again as per Sec. 10(3), in case of death of such above person, the money will be payable to nominees and the amount shall be free from any debt or other liability incurred by the deceased or the nominee before the death of the member or of the exempted employee and shall also not be liable to attachment under any decree or order of any court.

**Chapter - 14 : The Payment of Gratuity Act, 1972**

**2009 - May [5]** National Steels Limited decided to forfeit the amount of gratuity of its employees A, B and C on account of disorderly conduct and other acts which caused loss to the property belonging to the company. A, B and C, committed the following acts :

- (i) A refused to surrender the occupied land belonging to the company.
- (ii) B committed theft under law involves offence of moral turpitude.
- (iii) C after superannuation continued to occupy the quarter of the company for six months.

Against the decision of the company, A, B and C applied to the court for relief. The Company contented that the right to gratuity is not a statutory right and the forfeited amount of gratuity was within the law.

Examine the contention of the company and the decision taken by the company to forfeit the amount of gratuity in the light of the Payment of Gratuity Act, 1972. (5 marks)

**Answer :**

As per Section 4(6) of the Payment of Gratuity Act, 1972, if the services of any employee have been terminated for any act, willful omission, or negligence causing any damage or loss to or destruction of, property belonging to the employer, the gratuity shall be forfeited to the extent of the damage or loss so caused; and if the services of such an employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his involvement, the gratuity payable to the employee may be wholly or partially forfeited.

Moreover, in *K.C. Mathew vs. Plantation Corporation of Kerala Ltd.* 2001LLR(2) (Ker), it was held that withholding of gratuity is not permissible except under those circumstances enumerated in Section 4(6) and that the right to gratuity is a statutory right and none can be deprived of it except as provided by the law. Therefore, the contention of National Steels Ltd. is wrong.

A refuses to surrender the occupied land belonging to the company. The refusal of an employee to surrender the occupied land belonging to the company is not sufficient ground to withhold gratuity under Section 4(6) of the Payment of Gratuity Act, 1972. Hence, A's gratuity cannot be withheld.

B committed theft under law involving moral turpitude. The offence of theft committed by B, under law involves moral turpitude and his gratuity stands wholly forfeited in view of Section 4(6) of the Act.

If the employer has to be paid any amount regarding any type of charge by the employee and if he has not paid for the same during the course of his service, then the employer can adjust the amount from the gratuity of the employee. In the instant case, C after superannuation continued to occupy the quarter of the company for six months. Therefore the company is entitled to charge the rent from him and after adjusting other dues the remaining amount of gratuity may be paid.

**Chapter - 15 : Company : Basic Concepts**

**2009 - May [8]** F, an assessee, was a wealthy man earning huge income by way of dividend and interest. He formed three Private Companies and agreed with each to hold a bloc of investment as an agent for it. The dividend and interest income received by the company was handed back to F as a pretended loan. This way F divided his income into three parts in a bid to reduce his tax liability.

Decide, for what purpose three companies were established ? Whether the legal personality of all the three companies may be disregarded ? (5 marks)

**Answer :**

The case is similar to that of *Sir Dinshaw Maneckjee Petit, and Juggilal vs. Commissioner of Income Tax*. The three companies were formed by the Mr. F purely and simply as a means of avoiding tax and the companies were nothing more than the assessee himself. Therefore the whole idea of Mr. F was simply to split his income into three parts with a view to evade tax.

The legal personality of the three private companies may be disregarded because the companies were formed only to avoid tax liability and the company was nothing more than the assessee himself. It did no business, but was created simply as a legal entity to ostensibly receive the dividend and interest and to handover them over to the assessee as pretended loans. The same was upheld in *Re Sir Dinshaw*.

**Chapter - 16 : Memorandum of Association & Articles of Association**

**2009 - May [2] {C}** (b) State whether the following statements are true or false and give reasons :

- (ii) Every Company which is registered under the Companies Act, 1956, need not have their own Articles of Association. (1 mark)

**Answer :**

- (ii) **True:** As per Sec. 28 (i) of the Indian Companies Act, 1956, a company limited by shares may either frame its own set of articles or may adopt all or any of the regulations contained in Table A.

**2009 - May [10]** India Cosmetics Limited was a registered company Under Indian Companies Act, 1956. Later on, another company, India Cosmetics and Accessories Limited was formed and registered. Being similarity in the names of both Companies, India Cosmetics Limited lodged the complaint against India Cosmetics and Accessories Limited to the Registrar of Companies stating that there is sufficient similarity between these two names which may mislead or defraud to the public. India Cosmetics and Accessories Limited is intending to alter its name.

Advice the India Cosmetics and Accessories Limited to alter the name of the Company according to the provisions of the Companies Act, 1956. (5 marks)

**Answer :**

Section 21 of Indian Companies Act, 1956, provides that the name of a company may be changed at any time by passing a special resolution at a general meeting of the company and with the written approval of the Central Government.

However in case of similarity in the names of Companies, Section 22(1) of the Companies Act, 1956, provides if through inadvertence or otherwise, a company on its first registration or on its registration by a new name, is registered by a name which in the opinion of the Central Government, is identical with, or too nearly resembles, the name by which a company in existence has been previously registered or resembles a registered trademark, whether under this Act or any previous company law, the first mentioned company, may by ordinary resolution and with the previous approval of the Central Government, signified in writing, change its named or new name.

The problem asked in the question is based upon the provision of Section 22(1) of the Companies Act, 1956. The new company registered under the name India Cosmetics Accessories Ltd. is identical in name with the existing India Cosmetics Limited. According to the aforesaid provisions of Section 22(1) the newly setup company should change its name. In such a case, the company can, on its own, change the name by obtaining previous approval of Central Government (new power delegated to Regional Director) and then by passing an ordinary resolution [Section 22(1)(a)] within 12 months of the registration. Such a change should be made within 3 months of the date of the direction of the Central Government being received or such longer period as the Central Government may deem fit to allow. The application for changing the name is required to be made to the Registrar of Companies in Form 1A with a fee of Rs. 500.

#### **Chapter - 19 : Prospectus**

**2009 - May [2] {C}** (c) Pick out the correct answer from the following and give reasons :

- (iii) A "Statement in lieu of Prospectus" must be filed before the allotment of the shares with the Registrar of Companies by :
- (1) A Private Company
  - (2) A Guarantee Company
  - (3) A Public Company which issues the prospectus to the public
  - (4) A Public Company which does not issue the prospectus to the public. (1mark)

**Answer :**

- (iii) A public company which does not issue prospectus to the public: As per Section 70 of the Companies Act, 1956, a public company, which does not issue a prospectus to the public, has to file a statement in lieu of prospectus before the allotment of the shares with the Registrar of companies.

**2009 - May [12]** What is meant by " Abridged Prospectus" ? Is it necessary to furnish abridged form of prospectus alongwith the application form for shares. Under what circumstances an abridged prospectus need not accompany the detailed information regarding prospectus alongwith the application form ? (5 marks)



**Answer :**

According to Section 2(1) of the Companies Act, 1956, an abridged prospectus means memorandum containing such salient features of a prospectus as may be prescribed. The memorandum containing salient features of the prospectus accompanying the application forms shall be as per rules prescribed by the Central Government in this behalf. It is however, open to a company to attach full prospectus along with the application forms.

According to Section 56(3) of the Companies Act, 1956, a company can not issue application forms for shares or debentures unless the form is accompanied by abridged prospectus. The abridged prospectus and application form should bear the same printed number. Penalty for failure to comply with Section 56(3) can be a fine of up to Rs. 50,000.

**Circumstances under which the abridged prospectus containing all the prescribed details need not accompany the application forms:**

- (a) In case of *bona fide* underwriting agreement [Section 56(3)(a)]
- (b) Where shares and debentures are not issued to the public [Section 56(3)(b)].
- (c) Where the offer is made only to existing members or debenture holders of the company [Section 56(5)(a)].
- (d) In case of issue of shares or debentures which are in all respect similar to those previously issued and dealt in a recognized stock exchange [Section 56(5)(b)].

**Chapter - 23 : Share Capital**

**2009 - May [2] {C}** (c) Pick out the correct answer from the following and give reasons :

- (ii) The Securities Premium Account can not be utilised :
  - (1) In writing off the preliminary expenses of the company
  - (2) In writing off the expenses of commission paid on issue of share of the company.
  - (3) For redemption of redeemable preference shares
  - (4) In providing for the premium payable on the redemption of redeemable preference shares. (1mark)

**Answer :**

- (ii) For redemption of redeemable preference shares.  
Redeemable preference shares may be redeemed only out of profits available for dividends or out of the proceeds of a fresh issue of shares made for the purpose of redemption.

**Chapter - 24 : Share Certificate & Share Warrant**

**2009 - May [2] {C}** (b) State whether the following statements are true or false and give reasons :

- (i) A share warrant is a bearer instrument and bearer is entitled to the shares specified in the share warrant. (1mark)

**Answer :**

- (i) **True:** As per Sec. 114(3) of the Indian Companies Act, 1956, a share warrant shall entitle the bearer thereof of the shares therein specified and the shares so specified may be transferred by delivery of the warrant.

Thus it is clear that a share warrant is a bearer document of title to shares specified therein.

**Chapter - 28 : Registration of a Charge**

**2009 - May [11]** While sanctioning working limit, the rate of interest has been fixed at a specified percentage above the bank rate as notified by the Reserve Bank of India. There was a change in the interest rate due to Reserve Bank of India notification issued later. The Bank insisted on filing a return of modification of charges. Is the stand of bank correct ? Discuss, in the light of the provisions of the Companies Act, 1956. (5 marks)

**Answer :**

As per Section 135 of the Companies Act, 1956 “whenever the terms or conditions or the extent or operation of any charge registered under this part are or is modified, it shall be the duty of the company to send to the Registrar the particulars of such modifications and the provisions of this part as to registration of a charge shall apply to modification of the charge.” Thus in light of the above provision, the stand of the bank is correct.

Here the term modification includes variation of any terms of the agreement including variation of rate of interest (other than bank rate), which may be by mutual agreement or by operation of law. In the light of the above, the change in the rate of interest constitutes modification.

**Chapter - 29 : Meetings**

**2009 - May [2] {C}** (a) The articles of ABC Limited provided that only those shareholders would be entitled to vote whose names have been there on the Register of Members for two months before the date of the meeting. X' a member, of the ABC Limited was holding 200 equity shares of the company. X transferred his shares to Y before one month form the date on which the meeting was due. The name of Y could not be entered in the Register of Members as the application of transfer of shares was pending. X attended the meeting but he was prohibited by the company from exercising his voting right on the ground that he has not hold his shares for specified period as provided in the articles before the date of the meeting.

State whether X can exercise his voting right in the meeting ? State also the grounds upon which X may be excluded from exercising his voting rights in the meeting of the shareholders. (5 marks)

**Answer :**

As per Section 182 of the Companies Act, 1956 a public company, or a private company which is a subsidiary of a public company, shall not prohibit any member from exercising his voting right on the ground that he has not held his share or other interest in the company for any specified period preceding the

date on which the vote is taken, or any other ground except the grounds stated under Section 181 of the Companies Act, 1956.

Thus as per the provisions of Section 182 it is clear that X can exercise his voting right in the shareholders' meeting of ABC Ltd. though the articles of the company prohibits the same on the ground that he has not held his shares for the specified period before the meeting or on any other ground. Grounds on which X may be excluded from exercising his voting rights in meeting of the shareholders is given in Sec. 181 of Companies Act, 1956. They are (i) non-payment of calls by a member, (ii) non-payment of other sums due against a member, and (iii) where the company has exercised the right of lien on his shares.

**2009 - May [2] {C}** (c) Pick out the correct answer from the following and give reasons :

- (i) Statutory meeting is to be called by :
  - (1) Government Company
  - (2) Private Company having share capital
  - (3) Public Company having share capital
  - (4) Foreign Company. . (1 mark)

**Answer :**

- (i) Public Company having share capital: As per Section 165 every company limited by shares and every company limited by guarantee having share capital may call the statutory meeting. Other companies need not call the statutory meeting.

**2009 - May [9]** Annual, General Meeting of MGR Limited is convened on 28th December, 2008. Mr. J, who is a member of the company, approaches the company on 28th December, 2008 and demands inspection of proxies lodged with the company. Explain the legal position as stated under the Companies Act, 1956 in this regard. (5 marks)

**Answer :**

According to Sec. 176(7) of the Indian Companies Act, 1956, every member entitled to vote at a meeting of the company or on any resolution to be moved thereat, shall be entitled during the period beginning 24 hours before the time fixed for the commencement of the meeting and ending with the conclusion of the meeting, to inspect the proxies lodged, at anytime during the business hours of the company, provided not less than 3 days' notice in writing of the intention to inspect is given to the company.

In the given case, Mr. J who is a member approaches the company on 28<sup>th</sup> December and demands inspection of proxies lodged with the company. Since prior notice had not been given by Mr. J to the company for inspecting the proxies, the company may refuse inspection of proxy forms.

**Paper - 3B : Business Ethics****Chapter - 1 : Principles of Business Ethics**

**2009 - May [13] {C}** (a) "To maintain social contract between society and business, the trusteeship relations are essential". Describe the role of business ethics in this reference . (5 marks)

**Answer :**

William Shaw defined business ethics as the study of what constitutes right and wrong or good and bad human conduct in business context. Thus, business ethics deals with morality in business environment. It involves moral judgement based on understanding of the society.

There is a 'social contract' between society and business, under which society bestows upon business firms the authority to own and use its natural and human resources. In return society expects that productive organisations will enhance the general interests of consumers, employees and community. In conduct of their activities business firms are expected to honour social rights, justice, equity and fairness. Business ethics provides a set of moral principles which should govern the conduct of business. These moral principles help business people to judge the social consequences of their decisions and actions.

Since the social responsibility movement in 1960, business ethics has come to be considered a management discipline and there has been an increasing assertion that business enterprises must use their massive financial and public power to address social problems such as poverty, crime, public health, environmental protection, education etc.

To be ethical in business, one must be aware of the need for complying with the laws, customs and expectations of the society. The actions of people working in business, products and services must contribute positively to the welfare of the society.

**2009 - May [15]** Answer the following . You are required to state whether the statement is correct or incorrect with brief reasons.

- (b) In the longrun those business firms who do not respond to society's needs favourably will survive. (2.5 marks)

**Answer :**

**Incorrect:** Business is a creation of the society and so it should respond to the demands of the society. It uses society's resources, so the business is responsible to fulfill its social obligations. It would also be in long term interest of business to fulfill the demand and aspirations of the society. The people who have good environment, education and opportunities make good employees, customers and neighbours for the business.

**Chapter - 2 : Corporate Governance and Corporate Social Responsibility**

**2009 - May [14]** What is meant by Stakeholders ? Describe those stakeholders who are being affected by or can affect the organisation. (5 marks)

**Answer :**

Management is not accountable solely to Investors (shareholders) but also to other interest groups or constituents who are affected by corporate activity. The term “Stakeholders” describes such constituents of an organisation - the individuals, groups or other organization which are affected by, or can affect the organization in pursuit of its goals. Stakeholders of a company constitutes:-

1. Employees
2. Trade Unions
3. Suppliers
4. Government
5. Competitors
6. Customers
7. Shareholders and investors
8. Local communities.

**Chapter - 3 : Workplace Ethics**

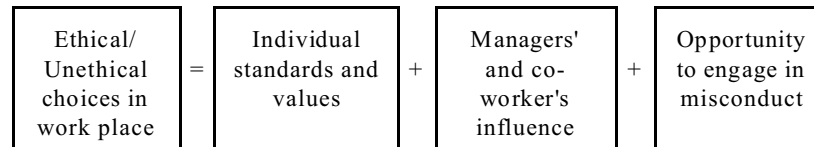
**2009 - May [13] {C}** (b) Explain the factors that influence ethical behaviour of an employee. List out some examples of various ethical issues faced in a workplace. (5 marks)

**Answer :**

The main factors influencing the level of workplace ethics are as follows:

1. **The individual moral standards :** The moral standards and sound personal values of a person exercise a significant impact on ethics in the workplace. An employee has to make a choice between right and wrong in different situations. His ethical behaviour affects his reputation within the company as well as the reputation of his company. His choices and actions depends upon his personal beliefs and values as well as reflects the understanding of his ethical responsibility as an employee.
2. **Influence of managers and co-workers:** Managers and co-workers exert significant control on one's choices at workplace through authority. For gaining consistent ethical compliance in the companies workplace, activities and examples should be set by co-workers along with the rules and policies established by the company.
3. **Opportunity to engage in misconduct :** In case the company fails to provide good examples and direction for appropriate workplace conduct, confusion and conflict will develop and will result in the opportunity for unethical behavior. If punishments for undesirable behavior are not implemented, each individual may misuse the opportunities available, to him since there is no system of punishment.

**Example :** If the boss or co-workers leave work early or make personal long-distance phone calls at work and charge them to the company or uses company's assets for private purposes, every individual may be tempted to do so.



**2009 - May [15]** Answer the following . You are required to state whether the statement is correct or incorrect with brief reasons.

- (a) Ethical behavior is not essential to work environment at the workplace. (2.5 marks)

**Answer :**

**Incorrect:** 'Workplace Ethics' refers to how one applies values to work in actual decision making. It is a set of right and wrong actions that directly impact the workplace. Workplace ethics are an extension of the personal standards or lack of them that is intrinsic in the people comprising the workplace. It is all about making choices that may not always feel good or seem beneficial but are the ``right`` choices to make. Ethics in the workplace require abolition of all kinds of discrimination and exploitation.

#### **Chapter - 4 : Environment & Ethics**

**2009 - May [15]** Answer the following . You are required to state whether the statement is correct or incorrect with brief reasons.

- (c) There is no economic growth without ecological costs. (2.5 marks)

**Answer :**

**Correct:** As per Brundt Land Report, 'the concept of sustainable development recognizes that economic growth has to be environmentally sustainable, since there is no economic growth without ecological cost.'

High economic growth means high rate of extraction, transformation and utilisation of non-renewable resources. Therefore an element of resource regeneration and positive approach to environment have to be incorporated in all developmental programmes.

#### **Chapter - 5 : Ethics in Marketing and Consumer Protection**

**2009 - May [15]** Answer the following . You are required to state whether the statement is correct or incorrect with brief reasons.

- (d) 'Consumer interest' and 'Public interest' are synonymous. (2.5 marks)

**Answer :**

**Incorrect:** The areas in which the consumers as a whole are benefitted is called consumer interest while the areas in which society as a whole has some interest is called public interest consumer interest is a sub system of the larger system i.e. general public or society.

#### **Chapter - 6 : Ethics in Accounting and Finance**

**2009 - May [16]** Explain the reasons for unethical behaviour among finance and accounting professional. (5 marks)

**Answer :**

The reasons for unethical behaviour among finance and accounting professionals are as follows:

A finance and Accounting Professional faces an “Ethical Conflicts” in circumstance when he is not in a position to comply with the principles that govern ethical behaviour. “Conflict of interest” situation the professional is required to decide between compliance with principle, and actions which are beneficial to the business enterprise.

Circumstances under which the conflicts occur are as follows.

**Finance and Accounting Professional working as consultant or auditor:** For professionals working as consultant or auditors a threat to objectivity is created, when a professional accountant in public practice competes directly with a client or has a joint venture or similar arrangements with a major competitor of a client. Such circumstances may give rise to conflict of interest and give rise to non-compliance with the fundamental principles.

**Finance and Accounting Professional working as an employee:** Finance and Accounting Professionals working as an employee may be pressurised to act or behave in way that could directly or indirectly threaten compliance with the fundamental principles. Such pressure may be explicit or implicit or may come from a supervisor, manager, director or another individual within the employing organisation. Such professionals may face pressure to :

- (i) Act contrary to law or regulation.
- (ii) Act contrary to technical or professional standards.
- (iii) Facilitate unethical or illegal earnings management strategies.
- (iv) Lie to, or otherwise intentionally mislead (including misleading by remaining silent) others particularly to the Auditors of the organisation or Regulatory Authorities.
- (v) Issue or otherwise be associated with a financial or non-financials report that materially misrepresents the facts, including statements in connection with the financial statements;  
tax compliance;  
legal compliance; or  
Reports required by securities regulators etc.

<b>Paper - 3C : Business Communication</b>
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**Chapter - 1 : Essentials of Communication**

**2009 - May [17] {C}** (a) Explain the factors which are responsible for the growing importance of communication of an organisation. (5 marks)

**Answer:**

According to *Sir John Harvey-Jones* "Communication is the single most essential skill. Effective communication is the need of the day". **In recent times communication has become all more essential due to the following reasons :-**

1. **Growth in the size of the business organisation :** An efficient systems of communication is required because the business organisations are

growing tremendously. Thousands of people work in the organisation. Organisations have factories or offices in different parts of the country or even world.

2. **Advance technology** : Day by day rapid changes are taking place in science and technology leading to obsolescence of old technology. Thus in order to upgrade or modernise technology proper communication between the superior and subordinate in an organisation is a must.
3. **Tough competition in the market** : Globalisation and liberalisation have resulted in cut throat competition. Thus to survive such competition, persuasive communication in form of advertisement, publicity, personal contacts is essential.
4. **Growing specialisation** : Division of work paved way for specialists to work in different departments sound communication is thus essential for ensuring mutual co-operation and understanding between different departments.
5. **Trade union movement** : Trade union movement is on its growth. Management now has to consult trade unions on various matters. A strong and meaningful relation between management and trade union is possible only by effective communication.
6. **Human Relation** : Employee's participation in management helps to develop among them a sense of loyalty and belongingness towards the organisation. Thus effective communication between management and employee is necessary to develop mutual trust and confidence.
7. **Public Relations** : Public relations helps an organisation to improve its image in society as the organisation has a social responsibility specially towards the customers.

#### **Chapter - 2 : Interpersonal Communication Skills**

**2009 - May [18]** What is meant by " Active listening" ? State the importance of ' Active listening' in the business communication skills. (5 marks)

**Answer :**

It is commonly held that hearing and listening are same. But actually it is not. Hearing is through ears and listening is by mind. Listening happens when the message conveyed is fully understood by the receiver. Listening is an active process as it requires listening with intensity, empathy, enthusiasm and responsibility.

**Advantages:**

1. Active listening helps to build a strong relationship.
2. It helps a person to grow in his career.
3. It keeps a person well informed.
4. It helps an organisation to meet it's objectives.

#### **Chapter - 6 : Communication in Business Environment**

**2009 - May [17]** {C} (b) Draft a circular for employees insisting on punctuality. (5 marks)



*Answer :*

**ABC Ltd.  
Sector 23, Noida**

Circular No.

Date:

To all employees.

All the employees are hereby requested to strictly follow the rules and regulations of the company especially with regard to arrival. Let us all be honest in our endeavour and make punctuality our motto.

Your co-operation is company's success.

P. K. Gupta  
Manager - H.R.

**Chapter - 7 : Legal Deeds and Documents**

**2009 - May [19]** A partnership firm was constituted by A, B and C partners, carrying on the business of shoe manufacturing. Later on, Nickson Shoe Manufacturing Co. Limited proposed to purchase the business of the firm to the partners of the firm. The partners unanimously consented to it and agreed to dissolve the firm. Draft a Partnership Dissolution Deed in this respect.

(5 marks)

*Answer :*

Partnership Dissolution Deed.

This deed of dissolution executed on this day of 10<sup>th</sup> May 2009 between

1. A S/o P, aged 32 years R/o Meerut
2. B S/o Q, aged 35 years R/o Meerut
3. C D/o R, aged 30 years R/o Meerut

The aforesaid partners have agreed, by mutual consent, to constitute a new firm, by selling all the assets and liabilities of the firm to Nickson Shoe Manufacturing Co. Ltd. registered under Indian Companies Act, 1956.

The terms and conditions are hereby agreed to as follows:

The firm stands dissolved from 10<sup>th</sup> of May 2009.

From this date the assets and liabilities of the firm shall vest with Nickson Shoe Manufacturing Co. Ltd.

The partners are released from all obligations w.e.f. 15<sup>th</sup> May 2009. Partners also agree to notify the dissolution to the various authorities.

Signed

.....  
(A, S/o P)

.....  
B, S/o Q)

.....  
(C, D/o R)

**2009 - May [20]** SVA Limited despatched Bonus Share Certificate to Mr. R.R. did not receive the Bonus Share Certificate as it was lost in the transit. R applied to the Company to issue the Bonus share certificate in duplicate. SVA

Limited asked Mr. R to submit an Indemnity Bond so that Bonus Share Certificate in duplicate may be issued to him. Draft an Indemnity Bond to be given by R to the company for seeking release of Bonus Share Certificate in duplicate. (5 marks)

**Answer :**

**Indemnity Bond**

I, R S/o P, residing at Mumbai, here by agree to indemnify SVA Ltd. for any loss that might incur for release of Bonus Share Certificate in duplicate of 50 equity shares of Rs. 10 each fully paid.

I also state that I have not yet received the Bonus Share Certificate issued by the company which the company says has already been dispatched.

Date .....

Place .....

Signature

(Mr. R)

# SCANNER™ Appendix

## PCC Gr. I Paper - 3 November - 2009

### Paper - 3A : Business Laws

#### Chapter-2 : Consideration

**2009 - Nov [1]** (a) Mr. Singh, an oldman, by a registered deed of gift, granted certain landed property to A, his daughter. By the terms of the deed, it was stipulated that an annuity of Rs. 2,000 should be paid every year to B, who was the brother of Mr. Singh. On the same day A made a promise with B and executed in his favour an agreement to give effect to the stipulation. A failed to pay the stipulated sum. In an action against her by B, she contended that since B had not furnished any consideration, he has no right of action.

Examining the provisions of Indian Contract Act, 1872, decide, whether the contention of A is valid ? (5 marks)

#### Chapter-4 : Performance of Contract

**2009 - Nov [1]** (c) Pick out the correct answer from the following and give reasons :

- (ii) A promises to paint a picture for B by a certain day, at a certain price. A dies before the day. The contract
- (1) can be enforced by A's representative
  - (2) can be enforced by B
  - (3) can be enforced either by A's representative or by B
  - (4) can not be enforced either by A's representative or by B

(1 mark)

#### Chapter-8 : Contract of Indemnity and Guarantee

**2009 - Nov [1]** (c) Pick out the correct answer from the following and give reasons :

- (i) A contracts to save B against the consequences of any proceedings which C may take against B in respect of a certain sum of 500 rupees. This is a
- (1) Contract of guarantee
  - (2) Quasi contract
  - (3) Contract of Indemnity
  - (4) Void contract.

(1 mark)

#### Chapter-9 : Bailment and Pledge

**2009 - Nov [1]** (b) State with reasons whether the following statements are correct or incorrect :

- (i) If the pawnor makes a default in the payment of debt, or performance of duty, as agreed, the pawnee has a right to sell the thing pledged for which no reasonable notice of the sale is required. (1 mark)

**Chapter-10 : Agency**

**2009 - Nov [1]** (b) State with reasons whether the following statements are correct or incorrect :

- (ii) An “Agency coupled with Interest” may be terminated, at the instance of principal, at any time. (1 mark)

**Chapter-11 : The Negotiable Instruments Act, 1881**

**2009 - Nov [1]** (c) Pick out the correct answer from the following and give reasons :

- (iii) A negotiable instrument drawn in favour of a minor is  
(1) void  
(2) void but not enforceable  
(3) valid  
(4) None of the above. (1 mark)

**2009 - Nov [4]** ‘N’ is the holder of a bill of exchange made payable to the order of ‘P’. The bill of exchange contains the following endorsements in blank :

First endorsement	‘P’
Second endorsement	‘Q’
Third endorsement	‘R’
Fourth endorsement	‘S’

‘N’ strikes out, without S’s consent, the endorsement by ‘Q’ and ‘R’. Decide with reasons whether ‘N’ is entitled to recover anything from ‘S’ under the provisions of Negotiable Instruments Act, 1881. (5 marks)

**Chapter-12 : The Payment of Bonus Act, 1965**

**2009 - Nov [3]** Standard Airways Limited was incorporated at Chennai in the year 2005 employing 125 workmen. Due to strike of workers, mismanagement in the company and accidental loss of the assets the company suffered heavy losses continuously since its incorporation, resulting which the large part of the capital and assets were wiped out. Consequently, the company moved an application to the Government of Tamilnadu requesting to exempt the company fully from the application of the provisions of the Payment of Bonus Act, 1965. Decide, whether the Government of Tamilnadu may grant exemption to the Company. State the provisions of law in this regard as stated under the Payment of Bonus Act, 1965. (5 marks)

**Chapter-13 : The Employees’ Provident Funds and Miscellaneous Provisions Act, 1952**

**2009 - Nov [6]** An Executive Committee is to be constituted to assist the Central Board under the provisions of the Employees Provident Funds and Miscellaneous Provisions Act, 1952. State the composition of such Executive Committee. (5 marks)

**Chapter-14 : The Payment of Gratuity Act, 1972**

**2009 - Nov [5]** Mr. X was an employee of Mutual Developers Limited. He retired from the company after completing 30 years of continuous service. He applied to the company for the payment of gratuity within the prescribed time.

The company refused to pay the gratuity and contended that due to stringent financial conditions the company is unable to pay the gratuity. Mr. X applied to the appropriate authority for the recovery of the amount of gratuity.

Examine the validity of the contention of the company and also state the provisions of law to recover the gratuity under the Payment of Gratuity Act, 1972. (5 marks)

**Chapter-15 : Company: Basic Concepts**

**2009 - Nov [2]** (a) Noble Meters Limited was incorporated with the equity share capital of Rs. 50 lakh. The company received the certificate of Incorporation on 20<sup>th</sup> May, 2009. The company issued the prospectus inviting the public to subscribe for its equity shares. Meanwhile, the company intended to commence its business. Whether Noble Meters Ltd. is entitled to commence its business without obtaining the certificate to commencement of Business ? Advice the company stating the conditions to be fulfilled for obtaining the certificate to commencement of Business from the Registrar of Companies under Companies Act, 1956. (5 marks)

**2009 - Nov [7]** The United Traders Association was constituted by two joint Hindu Families consisting of 21 major and 5 minor members. The Association was carrying the business of trading as retailers with the object for acquisitions of gain. The Association was not registered as a company under the Companies Act, 1956 or other law.

State whether United Traders Association is having any legal status ? Will there be any change in the status of this Association if the members of the United Traders Association subsequently reduced to 15. (5 marks)

**Chapter-16 : Memorandum of Association & Articles of Association**

**2009 - Nov [2]** (b) State whether the following statements are true or false and give reasons :

- (i) The articles of Association of a Company can be altered by passing an ordinary resolution in the meeting of the shareholders. (1 mark)

**Chapter-17 : Preliminary & Provisional Contracts**

**2009 - Nov [2]** (c) Pick out the correct answer from the following and give reasons :

- (i) Contracts which entered into, by agents or trustees on behalf of a prospective company before it has come into existence are called :  
(1) Provisional contracts  
(2) Pre-incorporation contracts  
(3) Both provisional and pre-incorporation contracts  
(4) None of the above. (1 mark)

**Chapter-19 : Prospectus**

**2009 - Nov [2]** (c) Pick out the correct answer from the following and give reasons :

- (ii) A prospectus issued by the financial institutions or bank for one or more issues of the securities or class of securities specified in the prospectus is called :

- (1) Deemed prospectus
- (2) Red-herring prospectus
- (3) Abridged prospectus
- (4) Shelf prospectus. (1 mark)

**2009 - Nov [9]** Modern Furnitures Limited was willing to purchase teakwood estate in Chhattisgarh State. Its prospectus contained some important extracts from an expert report giving the number of teakwood trees and other relevant information in the estate in Chhattisgarh State. The report was found inaccurate. Mr. 'X' purchased the shares of Modern Furnitures Limited on the basis of the above statement in the prospectus. Will Mr. 'X' have any remedy against the company? When an expert will not be liable? State the provisions of the Companies Act, 1956 in this respect. (5 marks)

**Chapter-23 : Share Capital**

**2009 - Nov [10]** M.H. Company Limited served a notice of general meeting upon its shareholders. The notice stated that the issue of sweat equity shares would be considered at such meeting. Mr. 'A', a shareholder of the M.H. Company Limited complains that the issue of sweat equity shares was not specified fully in the notice. Is the notice issued by M.H. Company Limited regarding issue of sweat equity shares valid according to the provisions of the Companies Act, 1956? Explain fully. (5 marks)

**Chapter-25 : Transfer & Transmission of Shares**

**2009 - Nov [2]** (b) State whether the following statements are true or false and give reasons :

- (ii) A transferee becomes a member of the company when the instrument of transfer is submitted with the company. (1 mark)

**2009 - Nov [8]** Mr. 'Y' the transferee, acquired 250 equity shares of BRS Limited from Mr. 'X', the transferor. But the signature of Mr. 'X', the transferor, on the transfer deed was forged. Mr. 'Y' after getting the shares registered by the company in his name, sold 150 equity shares to Mr. 'Z' on the basis of the share certificate issued by BRS Limited. Mr. 'Y' and 'Z' were not aware of the forgery. State the rights of Mr. 'X', 'Y' and 'Z' against the company with reference to the aforesaid shares. (5 marks)

**Chapter-29 : Meetings**

**2009 - Nov [2]** (c) Pick out the correct answer from the following and give reasons :

- (iii) The gap between two Annual General Meetings must not be more than
  - (1) 12 months
  - (2) 15 months
  - (3) 18 months
  - (4) 15 months as may be extended by Registrar of Companies to 18 months. (1 mark)

**Paper - 3B : Ethics**

**Chapter-1 : Principles of Business Ethics**

**2009 - Nov [13]** State with reasons whether the following statements are correct or incorrect :

- (b) There is no difference between ethics and morals. (2½ marks)

**Chapter-2 : Corporate Governance and Corporate Social Responsibility**

**2009 - Nov [11]** (b) Explain the meaning of the “Iron Law of Responsibility”. State the resulting benefits which may be acquired by achieving the longterm objectives through the business activities. (5 marks)

**Chapter-3 : Workplace Ethics**

**2009 - Nov [11]** (a) Explain the importance of ethical behaviour at the workplace. (5 marks)

**2009 - Nov [13]** State with reasons whether the following statements are correct or incorrect :

- (a) Fairness and honesty are the pillars of success in the business. (2½ marks)

**Chapter-5 : Ethics in Marketing and Consumer Protection**

**2009 - Nov [12]** Explain the pragmatic reasons for maintaining ethical behaviour in marketing through marketing executives. (5 marks)

**Paper - 2C : Communication**

**Chapter-1 : Essentials of Communication**

**2009 - Nov [14]** (a) What are the merits and demerits of grape-vine form of Communication. (5 marks)

**Chapter-6 : Communication in Business Environment**

**2009 - Nov [14]** (b) TKR Limited wants to hold its statutory meeting on 20th December, 2009 to discuss the matters relating to formation of the company and incidental matters thereto. (5 marks)

**2009 - Nov [15]** Fifth Annual General Meeting of the shareholders of Devrishi Limited was held on 20th August, 2009 at its registered office at Mumbai. 55 shareholders attended the meeting in person and 6 shareholders in proxy. Several ordinary business regarding adoption of audited Balance Sheet, declaration of dividend, appointment and re-appointment of directors and auditors were transacted at the meeting.

Draft the minutes of the Fifth Annual General Meeting of the shareholders of Devrishi Limited. (5 marks)

**Chapter-7 : Legal Deeds and Documents**

**2009 - Nov [16]** A partnership firm was constituted by A, B and C. A, the partner of the firm, expressed his desire to retire from the partnership firm by Mutual consent.

Draft a "Partnership Retirement Deed".

(5 marks)

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